

***“Taking on Water: The National Park Service’s Stalled Rulemaking
Effort on Personal Watercraft”***

Opening Statement of Chairman Candice S. Miller

Committee on Government Reform
Subcommittee on Regulatory Affairs

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2247 Rayburn House Office Building

Good morning. The Subcommittee on Regulatory Affairs will come to order. I would like to welcome everyone to our hearing today on the National Park Service’s rulemaking effort on personal watercraft.

Oftentimes, it seems that the government moves at its own pace. Many times, a calculated approach is warranted. But too often, government agencies seem to work at a glacial pace.

The National Park Service has been working on a rulemaking effort to allow personal watercraft—such as a Jet-Ski or a Sea-Doo and known by the acronym PWC—for six years. During this time, many self-imposed deadlines have come and gone; and I am concerned that completion of this effort is not a priority for the Service. The delays have resulted in unwarranted bans on PWCs in national parks which have a detrimental impact on small businesses and individuals that rely on sales, rentals, and service for their livelihood.

In March 2000, the Park Service issued a rule banning personal watercraft from national parks beginning in 2002. The rule identified twenty-one parks which may allow PWCs, but only after completing appropriate procedures to ensure that PWC use is appropriate.

The Bluewater Network and its parent company—Earth Island Institute—filed suit against the Interior Department and the Park Service challenging the provision of the rule that allowed ten of the identified national parks to allow the use of PWCs without having to go through a special rulemaking with a public comment period and an environmental assessment.

As part of a settlement agreement, the Park Service required all parks to complete a special rulemaking and an environmental assessment before allowing PWCs to be used and extended the deadline for completing the rulemaking before PWCs would be banned.

Though people may question the appropriateness of the March 2000 rule or even the settlement agreement which required all parks to complete a special rulemaking before allowing personal watercraft, my principal concern is the reasons behind the seemingly constant delays experienced by the Park Service in completing this rulemaking effort.

Fifteen of the twenty-one parks affected by the Service-wide rule have decided to allow PWCs and have proceeded with a rulemaking. Though seven of these parks were not affected by the settlement agreement, the Park Service not only failed to complete a rulemaking for any of these parks before their self-imposed deadline, but only one park issued an environmental assessment before a ban took affect.

For the seven parks with extended deadlines, only one park issued an environmental assessment before the deadline—and no parks issued a proposed rule before PWCs were banned.

It is imperative that government agencies be responsive in enacting appropriate policy, and I am concerned that the Park Service has allowed this rulemaking to languish for too long. All fifteen environmental assessments conducted by the Park Service have found that personal watercraft do not cause harm to the environment to the extent that a ban is warranted. For the five parks that have not issued final rules, an average of nearly thirty months have passed since an environmental assessment was issued.

The Service needs to make the completion of the rulemaking process a priority because their failures have a significant impact on the public. The Personal Watercraft Industry Association estimates that a ban on PWCs by the Park Service has cost the industry \$144 million per year and 3,300 direct and indirect jobs between 2001 and 2004. One of our witnesses—Laura Baughman—will present a study discussing the economic impact of the bans that are now into their fourth year.

The debate surrounding personal watercraft is not about whether they harm the environment. The issue we are here to discuss is about fairness for those who use PWCs responsibly and about the Park Service's failure to finalize the PWC rules.

I thank each of the witnesses for being here today, and I trust before this hearing is over, the Park Service will be able to give us a time certain for when the rulemaking process for the affected parks will be complete.

With that, I recognize the distinguished Ranking Member of the Subcommittee, Mr. Lynch.